

AMENDED IN ASSEMBLY MARCH 28, 2008

AMENDED IN ASSEMBLY MARCH 10, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

No. 2487

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**Introduced by Assembly Member Berg**

February 21, 2008

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An act to amend Section 1708.6 of the Civil Code, to amend Section 13950 of, and to add Section 13963.5 to, the Government Code, and to amend Section 19280 of the Revenue and Taxation Code, relating to domestic violence.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2487, as amended, Berg. Domestic ~~violence~~ *violence: restitution: collection*.

(1) Existing law provides that a person who commits the tort of domestic violence, as specified, is liable for damages, including, but not limited to, general, special, and punitive damages. The court is authorized to grant to a prevailing plaintiff equitable relief, an injunction, costs, and any other relief that the court deems proper, including reasonable attorney's fees.

This bill would provide that any final judgment awarding damages, costs, or fees under these provisions may be referred by the plaintiff to the California Victim Compensation and Government Claims Board for collection. The bill would authorize the board to charge a fee for the administration of this provision, and would make other conforming changes *court to the Franchise Tax Board for collection, as specified*.

(2) Existing law authorizes the superior court, the county, or the state to refer to the Franchise Tax Board for collection delinquent fines, state

or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior court of the State of California upon a person or any other entity that are due and payable in an amount totaling no less than \$100, in the aggregate, for criminal offenses, as specified. Existing law provides that restitution orders may be referred to the Franchise Tax Board only by a government entity, as agreed upon by the Franchise Tax Board, if specified conditions are met, including that the government entity has the authority to collect on behalf of the state or the victim.

This bill would provide that final judgments awarded to victims of domestic violence that are referred ~~to the California Victim Compensation and Government Claims Board~~ *by the court* for collection under the provisions described in (1) above, may be treated as restitution orders for purposes of referring the final judgment to the Franchise Tax Board for collection.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1708.6 of the Civil Code is amended to
- 2 read:
- 3 1708.6. (a) A person is liable for the tort of domestic violence
- 4 if the plaintiff proves both of the following elements:
- 5 (1) The infliction of injury upon the plaintiff resulting from
- 6 abuse, as defined in subdivision (a) of Section 13700 of the Penal
- 7 Code.
- 8 (2) The abuse was committed by the defendant, a person having
- 9 a relationship with the plaintiff as defined in subdivision (b) of
- 10 Section 13700 of the Penal Code.
- 11 (b) A person who commits an act of domestic violence upon
- 12 another is liable to that person for damages, including, but not
- 13 limited to, general damages, special damages, and punitive
- 14 damages pursuant to Section 3294.
- 15 (c) The court, in an action pursuant to this section, may grant
- 16 to a prevailing plaintiff equitable relief, an injunction, costs, and
- 17 any other relief that the court deems proper, including reasonable
- 18 attorney's fees.
- 19 (d) The rights and remedies provided in this section are in
- 20 addition to any other rights and remedies provided by law.

1 (e) The time for commencement of an action under this section  
2 is governed by Section 340.15 of the Code of Civil Procedure.

3 (f) Any final judgment awarding damages, costs, or fees under  
4 this section may be referred by the plaintiff to the California Victim  
5 Compensation and Government Claims Board for collection: *court*  
6 *to the Franchise Tax Board for collection pursuant to Article 5.5*  
7 *(commencing with Section 19280) of Chapter 5 of Part 10.2 of*  
8 *Division 2 of the Revenue and Taxation Code at the time the*  
9 *judgment is entered or upon petition by the plaintiff.*

10 SEC. 2. ~~Section 13950 of the Government Code is amended~~  
11 ~~to read:~~

12 ~~13950. (a) The Legislature finds and declares that it is in the~~  
13 ~~public interest to assist residents of the State of California in~~  
14 ~~obtaining compensation for the pecuniary losses they suffer as a~~  
15 ~~direct result of criminal acts.~~

16 ~~(b) This chapter shall govern the procedure by which crime~~  
17 ~~victims may obtain compensation from the Restitution Fund, and~~  
18 ~~the referral of final judgments awarded pursuant to Section 1708.6~~  
19 ~~of the Civil Code to the board for collection.~~

20 ~~(c) Any reference in statute or regulations to Article 1~~  
21 ~~(commencing with Section 13959) of Chapter 5, as it read on~~  
22 ~~December 31, 2002, shall be construed to refer to this chapter.~~

23 SEC. 3. ~~Section 13963.5 is added to the Government Code, to~~  
24 ~~read:~~

25 ~~13963.5. (a) A victim of domestic violence who prevails under~~  
26 ~~Section 1708.6 of the Civil Code may refer the final judgment~~  
27 ~~awarded under that section to the board for collection.~~

28 ~~(b) All other actions to collect the debt referred under~~  
29 ~~subdivision (a) shall cease during the period that collection of the~~  
30 ~~debt is under the jurisdiction of the board.~~

31 ~~(c) The board may charge a fee for the administration of this~~  
32 ~~section.~~

33 SEC. 4.

34 SEC. 2. Section 19280 of the Revenue and Taxation Code is  
35 amended to read:

36 19280. (a) (1) Fines, state or local penalties, forfeitures,  
37 restitution fines, restitution orders, or any other amounts imposed  
38 by a superior court of the State of California upon a person or any  
39 other entity that are due and payable in an amount totaling no less  
40 than one hundred dollars (\$100), in the aggregate, for criminal

1 offenses, including all offenses involving a violation of the Vehicle  
2 Code, may, no sooner than 90 days after payment of that amount  
3 becomes delinquent, be referred by the superior court, the county,  
4 or the state to the Franchise Tax Board for collection under  
5 guidelines prescribed by the Franchise Tax Board.

6 (2) For purposes of this subdivision:

7 (A) The amounts referred by the superior court, the county, or  
8 state under this section may include any amounts that a government  
9 entity may add to the court-imposed obligation as a result of the  
10 underlying offense, trial, or conviction. For purposes of this article,  
11 those amounts shall be deemed to be imposed by the court.

12 (B) Restitution orders may be referred to the Franchise Tax  
13 Board only by a government entity, as agreed upon by the  
14 Franchise Tax Board, provided that all of the following apply:

15 (i) The government entity has the authority to collect on behalf  
16 of the state or the victim.

17 (ii) The government entity shall be responsible for distributing  
18 the restitution order collections, as appropriate.

19 (iii) The government entity shall ensure, in making the referrals  
20 and distributions, that it coordinates with any other related  
21 collection activities that may occur by superior courts, counties,  
22 or other state agencies.

23 (iv) The government entity shall ensure compliance with laws  
24 relating to the reimbursement of the State Restitution Fund.

25 (C) The Franchise Tax Board shall establish criteria for referral,  
26 which shall include setting forth a minimum dollar amount subject  
27 to referral and collection.

28 (D) Final judgments awarded to victims of domestic violence  
29 under Section 1708.6 of the Civil Code that are referred to the  
30 ~~California Victim Compensation and Government Claims Board~~  
31 *by the court* for collection may be treated as restitution orders  
32 under subparagraph (B).

33 (b) The Franchise Tax Board, in conjunction with the Judicial  
34 Council, shall seek whatever additional resources are needed to  
35 accept referrals from all 58 counties or superior courts.

36 (c) Upon written notice to the debtor from the Franchise Tax  
37 Board, any amount referred to the Franchise Tax Board under  
38 subdivision (a) and any interest thereon, including any interest on  
39 the amount referred under subdivision (a) that accrued prior to the  
40 date of referral, shall be treated as final and due and payable to the

1 State of California, and shall be collected from the debtor by the  
2 Franchise Tax Board in any manner authorized under the law for  
3 collection of a delinquent personal income tax liability, including,  
4 but not limited to, issuance of an order and levy under Article 4  
5 (commencing with Section 706.070) of Chapter 5 of Division 2  
6 of Title 9 of Part 2 of the Code of Civil Procedure in the manner  
7 provided for earnings withholding orders for taxes.

8 (d) (1) Part 10 (commencing with Section 17001), this part,  
9 Part 10.7 (commencing with Section 21001), and Part 11  
10 (commencing with Section 23001) shall apply to amounts referred  
11 under this article in the same manner and with the same force and  
12 effect and to the full extent as if the language of those laws had  
13 been incorporated in full into this article, except to the extent that  
14 any provision is either inconsistent with this article or is not  
15 relevant to this article.

16 (2) Any information, information sources, or enforcement  
17 remedies and capabilities available to the court or the state referring  
18 to the amount due described in subdivision (a), shall be available  
19 to the Franchise Tax Board to be used in conjunction with, or  
20 independent of, the information, information sources, or remedies  
21 and capabilities available to the Franchise Tax Board for purposes  
22 of administering Part 10 (commencing with Section 17001), this  
23 part, Part 10.7 (commencing with Section 21001), or Part 11  
24 (commencing with Section 23001).

25 (e) The activities required to implement and administer this part  
26 shall not interfere with the primary mission of the Franchise Tax  
27 Board to administer Part 10 (commencing with Section 17001)  
28 and Part 11 (commencing with Section 23001).

29 (f) For amounts referred for collection under subdivision (a),  
30 interest shall accrue at the greater of the rate applicable to the  
31 amount due being collected or the rate provided under Section  
32 19521. When notice of the amount due includes interest and is  
33 mailed to the debtor and the amount is paid within 15 days after  
34 the date of notice, interest shall not be imposed for the period after  
35 the date of notice.

36 (g) In no event shall a collection under this article be construed  
37 as a payment of income taxes imposed under Part 10 (commencing  
38 with Section 17001) or Part 11 (commencing with Section 23001).

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